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Supreme Court of the United States.

OCTOBER TERM, A.

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NO. 138.

THE MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY, PLAINTIFF IN ERROR,

Against

THE STATE OF MINNESOTA EX REL. THE RAILROAD & WAREHOUSE COMMISSION, DEFENDANT IN ERROR.

ERROR TO THE SUPREME COURT OF MINNESOTA.

Brief For Defendant in Error.

W. B. DOUGLAS, Attorney General,
HOWARD H. DUNN and LAFAYETTE FRENCH,
Attorneys for Defendant in Error.

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STATEMENT OF THE CASE.

This cause comes to this court by writ of error to the Supreme Court of Minnesota to review the judgment of that court affirming the judgment of the District Court of Freeborn County, directing the plaintiff in error to build and maintain a station house on its line of road at the Village of Emmons and County of Freeborn and State of Minnesota.

A petition signed by a large number of the citizens of the Village of Emmons was presented to the Railroad & Warehouse Commission to require the plaintiff in error to build and maintain a station house on its line of railroad at that place, for the accommodation of the public. The commission fixed a time and place for the hearing of the respective parties, and after such hearing the commission made an order requiring the plaintiff in error to build and maintain such station house.

The commission found that the Village of Emmons is a municipal corporation, duly incorporated and organized under the laws of the State of Minnesota; that said village is situated on the line of the Minneapolis & St. Louis Railroad, that being the only railroad reaching said village; that said railroad had no station facilities whatever at said village; that the annual business furnished said railroad from said village is more than $12,000; that it is necessary, for the accommodation of the citizens of the village and vicinity and the patrons of the road, and public necessity reasonably requires that said railroad company should build and maintain a depot thereat for the accommodation of the patrons of said road; that there is a suitable location for a station house upon the present right-of-way of said railroad company, at the point and upon the property designated in the order.

Transcript of Record, pages 11-12.

The plaintiff in error refusing to comply with this order, this proceeding was instituted to compel compliance therewith.

Upon a hearing in the district court for the County of Freeborn, the district court sustained the order made by the commission and ordering a peremptory writ of mandamus as prayed for, commanding the plaintiff in error to forthwith comply with such order.

Transcript of Record, pages 65-68.

I.

THE WRIT OF ERROR SHOULD BE DISMISSED FOR WANT OF JURISDICTION, AS NO FEDERAL QUESTION IS NECESSARILY INVOLVED IN THE JUDGMENT OF THE COURT BELOW, OR IF THERE IS A FEDERAL QUESTION INVOLVED IN THE JUDGMENT THE DECISION OF THE COURT BELOW IS SO CLEARLY RIGHT THAT THE WRIT OF ERROR SHOULD BE DISMISSED OR THE JUDGMENT AFFIRMED.

(I) NO FEDERAL QUESTION IS NECESSARILY INVOLVED IN THE JUDGMENT OF THE COURT BELOW.

The decision of the supreme court of Minnesota was simply to the effect:

(a) That the commision have the power to order the erection and maintenance of depots where public necessity or convenience reasonably requires it to be done, under Chap. 6, Sec. 388 Genl. Stat. of 1894, following its former decision, (76 Minn. 469).

(b) The General Laws of 1901, Chapter 270, which in express terms requires railroad companies to build and maintain depots or station houses in all villages through which their road may pass, is not open to the objection that it is not within

the legislative power to enact such law. And that by virtue of this act all incorporated villages within the state, located on railway lands are *prima facie* entitled to depots; that the change wrought by this statute simply effects or shifts the burden of proof from the municipality to the railway company, and

(c) That the plaintiff in error did not overcome the *prima facie* case arising by virtue of the statute, and for these reasons affirmed the judgment of the court below.

The construction of this statute by the supreme court of Minnesota could not deprive the railroad company proceeded against of its property without due process of law; nor did its construction raise a federal question.

Phoenix Ins. Co. vs. Gardner 11 Wall. 204.

The construction given to a statute of a state, by the highest judicial tribunal of such state, is regarded as a part of the statute and is binding upon the courts of the United States as to the proper construction of a statute, and as to what should be regarded as among its terms no federal question can arise.

Morley vs. Lake Shore Ry. Co. 146 U. S. 162.

The plaintiff in error has no interest to assert that General Laws of 1901, Chapeer 270, is unconstitutional because it might be construed so as to cause it to violate the constitution. Its right is limited solely to the inquiry whether in the case which it presents, the effect of applying the statute is to deprive it of its constitutional rights.

Castello vs. Mc. Connico, 168 U. S. 674.

As the decision of the supreme court of Minnesota was upon a question not of a federal character, and one broad enough to sustain the judgment, the writ of error should be dismissed.

Miller's Exec. vs. Schwan, 150 U. S. 132.

Morrow vs. Brinkley, 129 U. S. 178.
Hall vs. Akers, 132 U. S. 554.
New Orleans Water Works vs. La. 185 U. S. 336.
Ry. Co. vs. Fitzgerald 136 U. S. 556
Cal. Powder Works vs. Davis 151 U. S. 389.

The holding of the supreme court of Minnesota, that upon all of the evidence before it, the plaintiff in error did not overcome the *prima facie* case arising by virtue of the statute, does not present a federal question and this court will not re-examine the evidence to ascertain whether the evidence justified this finding of the court below.

Eagen vs. Hart, 165 U. S. 188.
Eustis vs. Bolles, 150 U. S. 361.
Beatty vs. Benton, 135 U. S. 244.
Cal. Powder Works vs. Davis, 151 U. S. 389.

(2) *IF THERE IS A FEDERAL QUESTION INVOLVED IN THE JUDGMENT THE DECISION OF THE COURT BELOW IS SO CLEARLY RIGHT THAT THE WRIT OF ERROR SHOULD BE DISMISSED OR THE JUDGMENT AFFIRMED.*

N. Y. & N. E. R. R. Co. vs. Bristol, 151 U. S. 556.
N. Y. & N. E. R. R. Co. vs. Woodruff, 153 U. S. 689.
Chicago, etc. Ry. Co. vs. Neb. 170 U. S. 74.

But if this court shall be of the opinion that it has jurisdiction and that our contention is not well taken in this regard, we submit the following argument in support of the judgment which is sought to be reviewed in this court.

ARGUMENT.

II.

SUBJECT TO THE AUTHORITY OF CONGRESS WITHIN THE SPHERE OF ITS RIGHTFUL POWERS, AND SUBJECT TO ANY RESTRICTION IMPOSED BY THE CONSTITUTION, THE LEGISLATURE OF EACH STATE POSSESSES FULL POWER TO ENACT POLICE REGULATIONS OF RAILWAYS.

The reason why railroad companies may be subjected to this kind of police regulation is very clearly and cogently stated by Mr. Chief Justice Fuller, in N. Y. & N. E. Ry. Co. vs. Bristol, 151 U. S. 556-571, in the following language:

"The conclusions of this court have been repeatedly announced to the effect that though railroad corporations are private corporations as distinguished from those created for municipal and governmental purposes, their uses are public, and they are invested with the right of eminent domain, only to be exercised for public purposes; that therefore they are subject to legislative control in all respects necessary to protect the public against danger, injustice and oppression; that the state has power to exercise this control through boards of commissioners; that there is no unjust discrimination and no denial of the equal protection of the laws in regulations applicable to all railroad corporations alike; nor is there necessarily such denial nor an infringement of the obligations of contracts in the imposition upon them in particular instances of the entire expense of the performance of acts required in the public interest, in the exercise of legislative discretion; nor are they thereby deprived of property without due process of law, by statutes under which the result is ascertained in a mode suited to the nature of the case, and not merely arbitrary and capricious; and that the adjudication of the highest court of a state, that, in such particulars, a law enacted in the exercise of the police power of the state, is valid, will not be reversed by this court on the ground of an infraction of the constitution of the United States."

In Gladson vs. Minnesota, 166 U. S. 427, this court in passing upon the validity of the statute of the State of Minnesota requiring every railroad corporation to stop all regular trains

running wholly within the state at its stations at all county seats long enough to take on and discharge passengers with safety, Mr. Justice Gray, writing the opinion of the court says:

"A railroad corporation created by a state is for all purposes of local government a domestic corporation, and its railroad within the state is a matter of domestic concern. Even when its road connects, as most railroads do, with railroads in other states, the state which created the corporation may make all needful regulations of a police character for the government of the company while operating its road in that jurisdiction. It may prescribe the location and the plan of construction of the the road, the rate of speed at which the trains shall run, and the places at which they shall stop, and may make any other reasonable regulations for their management, in order to secure the objects of the incorporation, and the safety, good order, convenience and comfort of the passengers and of the public. All such regulations are strictly within the police power of the state. They are not in themselves regulations of interstate commerce; and it is only when they operate as such in the circumstances of their application, and conflict with the express or presumed will of congress exerted upon the same subject, that they can be required to give way to the paramount authority of the constitution of the United States."

And in Charlotte etc. R. R. Co. vs. Gibbes, 142 U. S. 386, this court in speaking of the state regulations of railroad companies, through the agency of commissioners, say:

"That regulation may extend to all measures deemed essential not merely to secure the safety of passengers and freight, but to promote the convenience of the public in the transaction of business with them, and to prevent abuses by extortionate charge and unjust discrimination. It may embrace the general supervision of the operation of their road, which may be exercised by direct legislation commanding or forbidding, under severe penalties, the doing or omission of particular acts, or it may be exercised through commissioners specially appointed for that purpose. The mode or manner of regulation is a matter of legislative discretion."

In Wis. etc. R. R. Co. vs. Jacobson, 179 U. S. 287-296, the court say:

"If power were granted by the legislature and it amounted in the particular case simply to a fair, reasonable and appropri-

ate regulation of the business of the corporation when considered with regard to the interest both of the company and of the public, the legislation would be valid and would furnish therefore ample authority for the courts to enforce it."

The General Laws of Minnesota of 1894, Chapter 6, creating the Railroad & Warehouse Commission, and defining their powers and duties, provide:

"Section 388. (a). That the commission hereby created shall have authority to inquire into the management of the business of all common carriers, subject to the provisions of this act. * * * * * *

And whenever, in the judgment of the commission, it shall appear that any common carrier fails, in any respect or particular, to comply with the laws of this state, or whenever, in their judgment, any repairs are necessary upon its railroads, or any addition to or change in its station or station-houses necessary, or any change in the mode of operating its roads or conducting its business is reasonable or expedient in order to promote the security, convenience and accommodation of the public, said commission shall inform said railroad company, by a notice thereof in writing, to be served as a summons in civil actions is required to be served by the statutes of this state in actions against corporations, etc. * * * * * * And if such common carriers shall neglect or refuse to comply with such order, then the commission may, in its discretion, cause suits or proceedings to be instituted to enforce its orders, as provided in this act."

Chapter 270, General Laws of Minnesota, 1901, provides:

Section 1. "That all railroads, corporations or companies operating any railroads in this state, shall within a reasonable time after the passage and approval of this act provide at all villages and boroughs on their respective roads, depots, with suitable waiting rooms, for the protection and accommodation of all passengers patronizing such roads, and a freight room for the storage and protection of freight; that all villages of less than one thousand (1000) inhabitants, shall have at least one (1) waiting room, and waiting rooms in all cases when necessary be constructed of such larger szie as to accommodate all passengers patronizing such railroad at any station. And when the annual business of such railroad company at any such station amounts to eight thousand ($8,000) dollars, or more, based upon the outgoing and in-coming freight and passenger traffic, then such railroad company shall keep an agent at said depot during the busi-

ness hours of each business day during the entire year; except stations where receipts from out-going and in-coming freight and passenger traffic for any consecutive three months shall not amount to fifteen hundred ($1,500) dollars.

PROVIDED, That the railroad and warehouse commission may authorize the withdrawal of such agent at depots where the business is periodical during such time as there is no business at any such station."

The Supreme Court of Minnesota has held that there is no doubt of the power of the commissioners under the general railroad and warehouse commission act to require railroad companies to provide suitable passenger waiting rooms and depots, at any place incorporated or unincorporated, where the public necessity or convenience reasonably requires it to be done.

State ex rel. R. & W. Com. vs. M. & St. L. R. R. Co., 76 Minn., 469.

And under a similar statute in this regard the Supreme Court of South Dakota, held that the railroad commissioners of that state have authority to require a railroad to construct a suitable station house at a regular station used by it for the receipt and discharge of passengers and freight, where the only existing accommodation is a platform and sidetrack, and there is a public necessity for such building.

State vs. Chicago, etc., R. R. Co., 12 S. Dak., 305.

In many jurisdictions statutory regulations as to the establishment and erection of depots at proper places along the route of the road, have been sustained as a proper exercise of the police power.

Commonwealth vs. Eastern R. R. Co, 103 Mass. 254.
R. R. Commissioners vs. Portland etc. R. R. Co. 63 Me. 269.
State vs. New Haven R. R. Co. 37 Conn. 153.
State vs. Wabash etc R. R. Co. 83 Mo. 144.
San Antonio etc. R: R. Co. vs. State, 79 Tex 264.
State vs. Kas. City etc. R. R. Co. 32 Fed. Rep. 722. The opinion in this case was written by Mr. Justice Brewer.

The supreme court of Minnesota held that General Laws of 1901, Chapter 270, which requires railroad companies to build and maintain depots or station houses in all villages through which their road may pass, was not open to the objection that it is not within the legislative power to enact such law, and that the change made by this statute simply affects or shifts the burden of proof; that all incorporated villages within the state through which the railroad may pass are *prima facie* entitled to depots, so that a railroad company appearing before the commissioners or delivering its case on appeal to the district court, desires the burden of showing that such a requirement is not called for, and the building and maintenance of a depot in the Village of Emmons is unnecessary and unreasonable.

Transcript of Record, pages 65-66.

The statute as thus construed by the supreme court of Minnesota, does not infringe upon any provision of the federal constitution, or deprive the plaintiff in error of its property without due process of law, or deny to it the equal protection of the laws, or impair the obligation of the charter contract between it and the State of Minnesota.

III.

THE REQUIREMENT OF THE PLAINTIFF IN ERROR TO BUILD AND MAINTAIN A DEPOT OR STATION HOUSE AT THE VILLAGE OF EMMONS WAS A REASONABLE EXERCISE OF THE POWER OF REGULATION IN FAVOR OF THE INTEREST AND FOR THE ACCOMMODATION OF THE PUBLIC.

In the discussion of this proposition we bear in mind that this Court has declared that:

"The reasonableness of the judgment with reference to the facts concerning each case must be a material, if not a controlling factor upon the question of its validity. A statute or a regulation provided for therein, is frequently valid, or the reverse ac-

cording as the fact may be, whether it is a reasonable or an unreasonable exercise of legislative power over the subject matter involved. And in many cases questions of degree are the controlling ones by which to determine the validity or the reverse of legislative action."

Wis., etc. R. R. Co. vs. Jacobson, 179 U. S., 287-301.

The Village of Emmons is duly incorporated under the laws of Minnesota, and located upon the line of the railroad owned and operated by the plaintiff in error. None of its trains stop at Emmons, either to take on or discharge passengers. It has no station facilities. The Village has a population of 246 persons. It contains four grocery stores, two large hardware stores, one drug store, one shoe store, two agricultural implement dealers, one furniture store, one saloon, one printing office, one barber shop, one jewelry store, two restaurants, one hotel, one bank, one lumber yard, two blacksmith shops, two wagon shops, two livery stables and feed barns, one flour mill, one photograph gallery, one harness shop, one grain elevator, two coal yards, one large creamery, one cold storage, and a large public school building. The bank has an average deposit of $60,000; the flour mill has a capacity of 60 barrels per day; there are thirty or thirty-five residences.

Transcript of Record, pages 24–30.

Surrounding the Village of Emmons is a good agricultural country and thickly settled. The people for about eight (8) miles east and three (3) miles south do their trading at this village. The plaintiff in error, on its line of road, maintains a station house at Norman, in Winnebago County, Iowa, which is distant 5045 feet or a little less than one mile from the south end of Main street in the Village of Emmons. In going from Emmons to Norman by the highway, the public travel west on the state line to the county line between Worth and Winnebago Counties; and thence south on the county line. Between Emmons and Norman station is the outlet of the state line lake, and

also the overflow from Bright's lake. The road from Emmons to Norman station extends through a low, marshy country, and for a great portion of the year it is impassable. The authorities of Emmons are unable to expend any of the public funds on this road as it is located in the state of Iowa. This is the only road which the people of Emmons have in reaching Norman station.

The passenger trains on the road of the plaintiff in error, leave Norman station going north 2 o'clock p. m. and 3 o'clock a. m. They arrive from the north at about 2 o'clock p. m. and about 10 o'clock a. m. The station is not kept open in the evening or lighted and one-half of these trains do not stop unless flagged. Persons who desire to take the morning train to go to Albert Lea, the county seat, or to St. Paul or Minneapolis are compelled to take a lantern with them, stand on the platform until the train arrives, without reference to the condition of the weather, and flag the train by swinging the lantern. Upon the arrival of the train at Norman station in the evening, the station is closed, no lights about the station or platform, and passengers living at Emmons or in its vicinity are compelled to travel over this public highway.

The freight receipts in-coming and out-going at Emmons, according to the showing of the plaintiff in error, are in excess of $20,000. As the accounts at Norman station are not kept separate, this showing is based upon the report made by the agent at Norman to the auditor of the company. The receipts of the railway company for passenger business cannot be shown. These shipments apply only to goods and merchandise. Shipments made by parties living in the vicinity of Emmons are not included in this statement. Separate accounts at Emmons and Norman station are not kept separate, but the agent at Norman when he makes his reports enters the shipments as "Emmons" or "Norman." All freight for Emmons, except carload lots, are transported from Norman station to Emmons at a cost of five cents per hundred weight.

That portion of the territory tributary to Emmons, where the people do their marketing and trading at Emmons, extends eight miles west and northwest; five to six miles north; about eight miles east and three miles south. It is a good agricultural country and thickly settled.

The reasons assigned by the plaintiff in error why the inforcement of the judgment would violate its constitutional rights are:

1. *BY REASON OF A ONE PER CENT GRADE AT THE POINT WHERE THE DEPOT IS TO BE LOCATED.*

It is not claimed on the part of the plaintiff in error that it will interfere or prevent the operation of any of its trains, except going north, and then only with maximum freight trains.

The company's spur track at Emmons is located 600 feet from the state line, and on a one per cent grade, and still the company stops its trains, puts on and takes out cars, except maximum trains, and at Norman for about 1000 feet the grade is 9-10, *practically the same as at Emmons*, but it is shown that the policy of good railroading requires grades of this character to be cut down or reduced.

2. *THAT THE CONTEMPLATED CHANGE IN ALIGNMENT OF THE COMPANY'S ROAD WOULD MAKE THE STATION AT EMMONS WORTHLESS.*

Mr. Wheeler, a civil engineer, in the company's employ, states in his testimony that the company is revising its lines, taking out the curvatures and reducing the grades; that the point at Emmons is one of the contemplated changes.

And Mr. Tanner, superintendent of transportation, for the plaintiff in error, said that he had recommended this change to the management, and that it was under serious consideration.

For all that appears the plaintiff in error may or may not make this change in the alignment of their road, and if made at all, it does not appear when it will be made. The company has not ordered the change to be made. What assurance have we that it will ever be made? It is no where stated in the record as a fact that a change has been ordered or directed by the company.

3. *THAT THE PLAINTIFF IN ERROR HAS A STATION AT NORMAN BUILT BEFORE THE EXISTENCE OF EMMONS AND WHICH THE COMPANY IS BOUND TO MAINTAIN THERE BY VIRTUE OF AN AGREEMENT WITH THE PEOPLE OF NORWAY TOWNSHIP.*

At the time of the original construction of the Minneapolis & St. Louis Railroad the people of Norway township, Winnebago County, Iowa, in which township Norman station is located, voted a five per cent tax to aid in the construction of the railroad, upon the condition that a station should be located and maintained within one mile of the northeast corner of Winnebago County.

Transcript of Record, page 38.

CAN A RAILROAD COMPANY, IN CONSIDERATION OF A TAX VOTED TO AID IN ITS CONSTRUCTION, BIND ITSELF TO BUILD A STATION OR DEPOT AT A PARTICULAR POINT WITHOUT REFERENCE TO A CHANGE OF POPULATION OR THE DEMAND OF BUSINESS OR THE ACCOMMODATION OF THE PUBLIC, IN THE MATTER OF TRANSPORTATION AND TRAVEL, AND PLEAD THAT AND ITS CLOSE PROXIMITY AS A JUSTIFICATION FOR NOT BUILDING AND MAINTAINING A DEPOT WHERE PUBLIC NECESSITY REASONABLY REQUIRES ONE TO BE MAINTAINED IN ORDER TO ACCOMMODATE THE PUBLIC IN THE MATTER OF TRANSPORTATION AND TRAVEL.

It is the duty of the railroad company to furnish reasonable

depot facilities. The number and location of the depots so as to constitute reasonable depot facilities vary with the changes and amount of population and business. A contract to leave a certain distance along the line of road destitute of depots is in contravention of public policy.

St. Joseph & Denver R. R. Co. vs. Ryan 11 Kas. 602.

The location of railroad depots has much to do with the accommodation of the wants of the public. And when once established a change of affairs may require a change of location in order to suit public convenience. Railroad companies in order to fulfill one of the ends of their creation—the promotion of the public welfare—should be left free to establish and re-establish their depots wheresoever the accommodation of the wants of the public may require.

Marsh vs. Railway Co., 64 Ills. 414.
St L. etc. R. R. Co. vs. Mathers, 71 Ills. 592.

4. *THAT THE NECESSARY EXPENSE IN CONSTRUCTING A DEPOT IS SO LARGE AS TO BE PROHIBITIVE.*

The testimony shows that a station building of the dimensions specified in the order of the commission can be constructed for $1200, the platform for $250, 1200 feet of side track, the same number of feet that they have at Norman, including switches, so as to have it conform with their present track, for $1600, and when completed the company would have the same accommodation as to side track, station room and other facilities as at Norman.

Transcript of Record, pages 50-51.

A railroad chartered and built primarily for the accommodation and in the interest of the public cannot refuse to obey the commands of the legislature when the public interest reasonably require the building of a station house, because the company will

entail an expense of $3000. The statute provides the size, height and dimensions of a station house which is required to be built.

Genl. Stat. 1894, Sec. 2702.
Genl. Stat. 1897, Chap. 94, Sec. 1.
M. L. & T. R. Co. vs. R. R. Con. 109 La. 247.

The commission in their order simply requires the plaintiff in error to construct their station of the size and dimensions which the statute requires shall be built under the circumstances.

IV.

THE LOCATION OF STATIONS FOR RECEIVING AND DELIVERING PASSENGERS AND FREIGHT INVOLVES A COMPREHENSIVE VIEW OF THE INTERESTS OF THE PUBLIC AS WELL AS OF THE RAILROAD COMPANY, AND ITS INTEREST CAN BE BETTER DETERMINED BY AN ADMINISTRATIVE BOARD INTRUSTED BY THE LEGISLATURE WITH THAT DUTY THAN BY THE ORDINARY JUDICIAL TRIBUNAL.

The commission found after a hearing and investigation that it is necessary for the accommodation of the citizens of the Village of Emmons, and vicinity, and the patrons of the road, and that public necessity reasonably requires that the plaintiff in error should build the depot in question; that there is a suitable location for a station house upon the present right-of-way of the plaintiff in error, at the point and upon the property designated in the order.

These findings of fact by the commission are *prima facie* evidence of the matters therein stated.

Genl. Stat. 1894, Sec. 399.

Under the statute every presumption is in favor of the action of the commission, and the burden was upon the plaintiff in error to show that such action was contrary to law.

The supreme court of Minnesota, in speaking of the principles on which the court should proceed to review the acts of the commission, say:

"Ordinarily, on appeal from one tribunal to another the evidence on which the lower tribunal acted is returned, and the decision is reviewed in the light of that evidence. But the commission need not base its decision wholly on any such evidence. It is not a judicial tribunal, but an administrative body, whose powers are somewhat legislative in their character; and, like other administrative or legislative bodies, it acquires a knowledge of the facts, circumstances, and conditions in its own way."

Steenerson vs: G. N. Ry. Co. 69 Minn. 353-376.

Again at page 410, Mr. Justice Mitchell says:

"Courts should be very slow to interfere with the deliberate judgment of the legislature or the legislative commission in the exereise of what is confessedly a legislative or administrative function. To warrant such interference, it should clearly appear that the rates fixed are so grossly inadequate as to be confiscatory, and hence in violation of the constitution."

And in Northern Pac. R. R. Co. vs. Dustin, 142 U. S. 492-499, Mr. Justice Gray uses the following language:

"The location of stations and warehouses for receiving and delivering passengers and freight involves a comprehensive view of the interests of the public as well as the corporation and its stockholders, and a consideration of many circumstances concerning the amount of population and business at, or near, or within convenient access to one point or another, which are more appropriate to be determined by the directors, or, in case of abuse of their discretion, by the legislature, or by administrative boards entrusted by the legislature with that duty, than by the ordinary judicial tribunals."

In view of the command of the legislature, the findings of the commission, the physical obstacles that render it inconvenient for the people of Emmons, and its vicinity, to receive reasonable accommodations at Norman Station, can the Court say that by

the enforcement of the judgment in this case, any of the constitutional rights of the plaintiff in error will be thereby invaded? We think not.

We respectfully submit that the writ of error should be dismissed or the judgment affirmed.

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